

WISCONSIN ENVIRONMENTAL E-MAIL ALERT - SPECIAL EDITION

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GREEN TIER LEGISLATION SIGNED INTO LAW

On April 16, 2004 Governor Doyle signed the innovative "Green Tier" legislation into law. 2003 Act 276. The law, which took effect April 30, 2004, grew out of earlier "audit privilege" bills which were intended to provide enforcement protection for companies which did self auditing. The Green Tier law provides that protection, but goes well beyond and offers additional "incentives" to companies that undertake projects that enhance the environment.

Companies seeking to take advantage of the additional incentives would participate as either a Tier I or Tier II facility. The eligibility and ongoing environmental requirements are more stringent for a Tier II facility, but the corresponding benefits could also be greater. At a minimum, companies entering the program would be required to develop and implement an "environmental management system," conduct periodic audits and satisfy certain criteria related to the company's enforcement history. The benefits of entering the program include public recognition by WDNR of the company's participation in the program, the ability to use a logo to reflect participation in the program, the assignment of a designated WDNR representative to the company and reduced frequency of inspections.

More significant "incentives" are available to Tier II participants. This is a negotiated process which begins with a company proposing to WDNR a project the company would undertake to achieve "superior environmental performance" and the "proportional" incentives the company would receive in return. The scope of eligible projects is exceedingly broad and includes not only projects which would reduce emissions at the company's facilities, but also projects that would help other facilities reduce their emissions or reduce environmental impacts from currently unregulated activities. Projects which restore or preserve on-site or off-site natural resources are also eligible, as are energy conservation projects. Similarly, WDNR has great flexibility in the incentives it could offer. The incentives could include things like reduced or streamlined permitting and there does not need to be a connection between the project and the incentive. In other words, an air project could be used for flexibility in a water program. Ultimately, the law is designed to reward companies that undertake innovative and creative projects to enhance the environment.

For more information on this topic please contact Thomas P. McElligott at tpm@quarles.com or by calling (414) 277-5531. Also, more information can be found at the following WDNR website: <http://dnr.wi.gov/org/caer/cea/environmental/index.htm>